

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM EUGENE FIELDS,

Petitioner,

v.

ED TROYER,

Respondent.

Case No. C22-05638-TSZ-SKV

ORDER FOR SERVICE AND
ANSWER, § 2254 PETITION

This is a federal habeas action filed under 28 U.S.C. § 2254. Petitioner is currently incarcerated at the Pierce County Jail. The Court, having reviewed petitioner's federal habeas petition, hereby finds and ORDERS as follows:

(1) Petitioner names Pierce County Jail as respondent. Dkt. 5-1. The proper respondent to a habeas petition is the "person who has custody over [the petitioner]." 28 U.S.C. § 2242; *see also* § 2243; *Brittingham v. United States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). The official having custody of petitioner where he is currently confined – Pierce County Jail – is Pierce County Sheriff Ed Troyer. Accordingly, the Clerk is directed to substitute Pierce County Sheriff Ed Troyer as the respondent in this

1 action. If any party believes that Sheriff Troyer is not the proper respondent, the party shall file a
2 motion to substitute the correct respondent.

3 (2) The Clerk shall arrange for service by certified mail upon respondent and upon
4 the Attorney General of the State of Washington and the Pierce County Prosecuting Attorney's
5 Office copies of the petition, all documents in support thereof, and this Order. The Clerk shall
6 also direct a copy of this Order and the Court's *pro se* instruction sheet to petitioner.

7 (3) Within ***forty-five (45) days*** after such service, respondent(s) shall file and serve an
8 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States
9 District Courts. As part of such answer, respondent(s) shall state whether petitioner has
10 exhausted available state remedies and whether an evidentiary hearing is necessary.

11 Respondent(s) shall not file a dispositive motion in place of an answer without first showing
12 cause as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of
13 the Court and serve a copy of the answer on petitioner.

14 (4) The answer will be treated in accordance with LCR 7. Accordingly, on the face
15 of the answer, respondent(s) shall note it for consideration on the fourth Friday after filing.
16 Petitioner may file and serve a response not later than the Monday immediately preceding the
17 Friday designated for consideration of the matter, and respondent(s) may file and serve a reply
18 not later than the Friday designated for consideration of the matter.

19 (5) Filing by Parties, Generally

20 All attorneys admitted to practice before this Court are required to file documents
21 electronically via the Court's CM/ECF system. All non-attorneys, such as *pro se* parties and/or
22 prisoners, may continue to file a paper original with the Clerk. All filings, whether filed
23

electronically or in traditional paper format, must indicate in the upper right hand corner the name of the magistrate judge to whom the document is directed.

Any document filed with the Court must be accompanied by proof that it has been served upon all parties that have entered a notice of appearance in the underlying matter.

(6) Motions

Any request for court action shall be set forth in a motion, properly filed and served. Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a part of the motion itself and not in a separate document. The motion shall include in its caption (immediately below the title of the motion) a designation of the date the motion is to be noted for consideration on the Court's motion calendar.

(7) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

(8) The Clerk shall send copies of this Order to petitioner and to the Honorable Thomas S. Zilly.

Dated this 19th day of October, 2022.


S. KATE VAUGHAN
United States Magistrate Judge